

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California
Date: May 5, 2005
Resolution No. L-318

RESOLUTION**BACKGROUND**

Pursuant to Chapter 8, Article 2 of the Public Utilities Code the Commission regulates the transportation of passengers by charter party carriers on the public highways in this state. No carrier may provide this service without first obtaining a permit from the Commission. The Consumer Protection and Safety Division evaluates the carrier's qualifications for a charter party carrier's permit by requiring the applicant to sign a declaration under penalty of perjury that he or she has not been convicted of any violation of the state's charter party carrier statute or any violation involving moral turpitude or any felonies that would disqualify from retaining a charter party carrier permit. The Commission may refuse to issue a permit if the applicant has committed any act constituting dishonesty or fraud.

DISCUSSION

Despite the staff's best efforts to use the qualification process to screen out individuals that are likely to take advantage of customers after engagement, there are a number of charter party carriers that violate Commission regulations governing their operations in California. A few carriers' conduct is so egregious that local authorities prosecute them for fraud and other unfair business practices.

Public Utilities Code Section 5378(a)(3) provides that this Commission may cancel, suspend or revoke the permit of a carrier upon a misdemeanor conviction under Chapter 8, Article 2 of the Public Utilities Code or a felony conviction for robbery, burglary, larceny, fraud, or intentional dishonesty for personal gain. The Commission may take action under 5378(a)(3) without prior notice and opportunity to be heard in a formal evidentiary hearing.

We believe the cancellation, suspension or revocation of a charter party carrier's permit should occur immediately after conviction of a qualifying misdemeanor or

felony so that the carrier's opportunity for further misconduct is minimized at the earliest possible date. For this reason we are delegating to the Executive Director authority to cancel, suspend or revoke the permit of a charter party carrier upon notification by the General Counsel of the Legal Division that the carrier has been convicted of a qualifying misdemeanor or felony. The Executive Director shall report a cancellation, suspension or revocation of a charter party carrier's permit ordered pursuant to this resolution to the Commission at the earliest Commission meeting after action is taken.

Public Utilities Code §311(g)(1) requires these items to be served on all parties and subject to at least 30 days' public review and comment before the Commission may vote on them. [Section 311(g)(3) and Rule 77.7(f)(9) provide that the 30-day period may be reduced or waived by the Commission upon a finding of public necessity]. The comment period on this item is being under this authority.

FINDINGS OF FACT

1. Despite the best efforts of the Commission staff and the Commission to screen out individuals that are likely to engage in fraudulent or other unfair business practices, a few individuals receive permits to operate as charter party carriers and thereafter take advantage of or endanger customers after engagement.
2. The conduct of a few charter party carriers is so egregious that local authorities prosecute and obtain convictions for fraud and other unfair business practices.
3. Delegation of authority to the Executive Director will allow staff to protect consumers from unfair business practices.

CONCLUSIONS OF LAW

1. Public Utilities Code Section 5378(a)(3) provides that this Commission may cancel, suspend or revoke the permit of a charter party carrier that has been convicted of certain misdemeanors or felonies without prior notice or opportunity to be heard through a formal hearing.
2. The Executive Director may be authorized under Public Utilities Code Section 7 through this resolution to suspend, cancel or revoke a household goods carrier's permit. The Executive Director's actions will be ministerial based upon the

Commission's stated policy to implement Section 5378(a)(3) at the earliest possible date to protect consumers.

ORDER DELEGATING AUTHORITY

1. The Executive Director is authorized pursuant to Public Utilities Code Section 7 to cancel, suspend or revoke the permit of a household goods carrier upon notification by the General Counsel of the Legal Division that the carrier has been convicted of a qualifying misdemeanor or felony as defined in Public Utilities Code Section 5378(a)(3).
2. The Executive Director shall report to the Commission after taking action pursuant to this resolution at the earliest Commission meeting of the cancellation, suspension or revocation of a charter party carrier's permit.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting of May 5, 2005 the following Commissioners approved it:

STEPHEN A. LARSON
Executive Director